

AMENDED IN SENATE APRIL 6, 2006

SENATE BILL

No. 1490

Introduced by Senator Ducheny

February 23, 2006

An act to add ~~Section 9611~~ *Sections 9611 and 9612* to the Business and Professions Code, relating to cemeteries.

LEGISLATIVE COUNSEL'S DIGEST

SB 1490, as amended, Ducheny. Cemetery Regulation.

Existing law establishes the Cemetery and Funeral Bureau within the Department of Consumer Affairs and sets forth its powers and duties, including, but not limited to, licensing and regulating a cemetery manger, salesperson, or broker, ~~and its powers to audit and inspect the cemeteries. Violation of related provisions is a crime, and requires the bureau to provide specified information about its licensees on its Internet Web site.~~

This bill would require the bureau to disclose additional information regarding cemeteries on its Internet Web site.

Existing law establishes certain requirements ~~for private cemeteries, including, but not limited to, the requirement that notice be provided regarding a change in ownership of any cemetery authority,~~ establishes certain requirements for administration of private endowment care cemeteries, and establishes maintenance and investment requirements applicable to the endowment care trust funds.

~~This bill would, with certain exceptions, require a seller of a cemetery to report the sale to the county recorder, would require the county recorder to establish and update an index of all cemetery properties and to make the index available for public inspection, and would require the bureau to annually report to each county recorder all~~

~~properties that are operated as cemeteries for inclusion within the cemetery index. By establishing these new requirements upon the county recorder, and by changing the definition of related crimes, this bill would impose a state-mandated local program.~~

~~This bill would require the bureau to adopt regulations to ensure that the private endowment care cemeteries are properly maintained and that endowment care funds are properly managed, to ensure that the cemeteries are audited and inspected to determine compliance, and to assess the owner a civil penalty not to exceed _____ dollars for each violation. The bill would require the Attorney General to commence a civil action on behalf of the bureau to collect the penalties and reasonable attorney's fees and court costs.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above *establish minimum standards of maintenance for endowment care cemeteries under its jurisdiction.*~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 9611 is added to the Business and*
- 2 *Professions Code, to read:*
- 3 *9611. The bureau shall disclose on its Web site information*
- 4 *about each cemetery subject to the jurisdiction of the bureau. In*
- 5 *addition to the information required by Section 27, the bureau*
- 6 *shall disclose the name of the owner of each cemetery, the name*
- 7 *of the cemetery, the business address of the cemetery owner, and*
- 8 *the physical address of the cemetery.*
- 9 *SEC. 2. Section 9612 is added to the Business and*
- 10 *Professions Code, to read:*

9612. *Notwithstanding Section 8115 of the Health and Safety Code, the bureau shall adopt regulations that establish minimum standards of maintenance for endowment care cemeteries under the jurisdiction of the bureau. The standards shall be those reasonably necessary to protect the public health and safety, assure decent and respectful treatment of human remains, and prevent the offensive deterioration of cemetery grounds, structures, and places of interment. The regulations shall consider differences in cemetery size, location, and topography, type of interments, and the extent to which funds are available from the cemetery's endowment care funds to perform maintenance.*

The standards established under this section shall not supercede any standards of a higher level of care established pursuant to Section 8115 of the Health and Safety Code.

~~SECTION 1. Section 9611 is added to the Business and Professions Code, to read:~~

~~9611. (a) A seller of a cemetery shall report the sale to the county recorder of the county or counties where the cemetery is located.~~

~~(b) The county recorder of each county shall do all of the following:~~

~~(1) Establish an index of all cemetery properties located within that county. The index shall be available for public inspection.~~

~~(2) Record the transfer of ownership in the cemetery index.~~

~~(c) The bureau shall do all of the following:~~

~~(1) Annually report to each county recorder all properties that are operated as cemeteries for inclusion within the cemetery index.~~

~~(2) Adopt regulations to ensure that the private endowment care cemeteries are properly maintained and that endowment care funds are properly managed, and to ensure that the cemeteries are audited and inspected to determine compliance.~~

~~(3) Assess the owner a civil penalty not to exceed _____ dollars (\$_____) for each violation of this section.~~

~~(d) The Attorney General shall commence a civil action on behalf of the bureau to collect penalties assessed pursuant to this section, including, but not limited to, reasonable attorneys fees and court costs.~~

1 ~~(e) This section does not apply to a cemetery owned by a~~
2 ~~church or religious society or denomination, or by a corporation~~
3 ~~sole that is established to administer the temporalities of any~~
4 ~~church or religious society or denomination.~~

5 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
6 ~~Section 6 of Article XIII B of the California Constitution for~~
7 ~~certain costs that may be incurred by a local agency or school~~
8 ~~district because, in that regard, this act creates a new crime or~~
9 ~~infraction, eliminates a crime or infraction, or changes the~~
10 ~~penalty for a crime or infraction, within the meaning of Section~~
11 ~~17556 of the Government Code, or changes the definition of a~~
12 ~~crime within the meaning of Section 6 of Article XIII B of the~~
13 ~~California Constitution.~~

14 ~~However, if the Commission on State Mandates determines~~
15 ~~that this act contains other costs mandated by the state,~~
16 ~~reimbursement to local agencies and school districts for those~~
17 ~~costs shall be made pursuant to Part 7 (commencing with Section~~
18 ~~17500) of Division 4 of Title 2 of the Government Code.~~